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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 CURTIS NEAL WELLS,)
9)
10 Petitioner,) CASE NO. C05-0988-TSZ-MAT
11)
12 v.)
13)
14 ROBERT MCKENNA,) ORDER FOR SERVICE
15)
16 Respondent.)
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13 Petitioner is a Washington state prisoner who has filed a petition for a writ of habeas
14 corpus pursuant to 28 U.S.C. § 2254. (Dkt. #1). On June 7, 2005, the court ordered petitioner
15 to show cause why his petition should not be dismissed for failure to exhaust his state court
16 remedies. (Dkt. #3). On June 29, 2005, petitioner filed a response. (Dkt. #4). Having reviewed
17 the response and the balance of the record, the court does hereby find and ORDER as follows:

18 (1) Petitioner's response, although difficult to decipher, appears to state that his
19 appellate attorney refused to raise certain claims in state court which petitioner now seeks to raise
20 here. (Dkt. #4 at 2). The court will defer addressing whether this allegation, if true, is sufficient
21 to satisfy the exhaustion requirement, until after respondent has filed his Answer. Accordingly,
22 the Clerk shall arrange for service by certified mail upon respondent and upon the Attorney
23 General of the State of Washington, of copies of the petition, of all documents in support thereof,
24 and of this Order. The Clerk shall also send a copy of this Order and the General Order to
25 petitioner.
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1 (2) Within **forty-five days** after such service, respondent shall file and serve an
2 Answer in accordance with Rule 5 of the Rules Governing Section 2254 Cases in United States
3 District Courts. As part of the Answer, respondent shall state (a) whether petitioner has
4 exhausted available state remedies, (b) whether there is any issue of abuse or delay under Rule 9,
5 (c) whether an evidentiary hearing is necessary, and (d) whether the petition is timely.
6 Respondent shall not file a dispositive motion in place of an Answer without first showing cause
7 as to why an Answer is inadequate.

8 (3) The Answer will be treated in accordance with Local Rule CR 7. **Accordingly, on**
9 **the face of the Answer, respondent shall note the Answer for consideration on the fourth**
10 **Friday after filing.** Petitioner may file and serve a Response no later than the Monday
11 immediately preceding the Friday designated for consideration of the matter, and respondent may
12 file and serve a Reply no later than the Thursday immediately preceding the designated Friday.

13 (4) Respondent shall file the Answer and a copy thereof with the Clerk of Court, and
14 serve a copy of all documents upon petitioner.

15 DATED this 30th day of June, 2005.

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18 Mary Alice Theiler
United States Magistrate Judge
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